

AMENDED IN SENATE JULY 15, 2015

AMENDED IN SENATE JUNE 29, 2015

AMENDED IN SENATE JUNE 9, 2015

AMENDED IN ASSEMBLY MAY 4, 2015

AMENDED IN ASSEMBLY APRIL 21, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 514

Introduced by Assembly Member Williams

February 23, 2015

An act to amend Sections 25132 and 53069.4 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL’S DIGEST

AB 514, as amended, Williams. Ordinances: violations: administrative fines.

Existing law authorizes the legislative body of a city, county, or city and county to collect any fee, cost, or charge incurred in specified activities, including the abatement of public nuisances, enforcement of specified zoning ordinances, inspections and abatement of violations of the State Housing Law, inspections and abatement of violations of the California Building Standards Code, and inspections and abatement of violations related to local ordinances that implement these laws. Existing law limits the amount of this fee, cost, or charge to the actual cost incurred performing the inspections and enforcement activity, including permit fees, fines, late charges, and interest.

Existing law authorizes the legislative body of a local agency to make, by ordinance, any violation of an ordinance subject to an administrative fine or penalty and limits the maximum fine or penalty amounts for infractions, as specified. For violations of city or county building and safety codes determined to be an infraction, existing law limits the amount of the fine to \$100 for a first violation, \$500 for a 2nd violation of the same ordinance within one year, and \$1,000 for each additional violation of the same ordinance within one year of the first violation.

~~This bill would limit the administrative fine amounts authorize a county to establish administrative fines, not be exceed specified limits, for violations of certain county ordinances, including a county building and safety ordinance, brush removal ordinance, grading ordinance, film permit ordinance, or zoning ordinance, determined to be an infraction, as specified subject to certain county findings. By imposing duties on counties regarding administrative fine amounts for violation of specified ordinances, including local building and safety ordinances, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes-no~~. State-mandated local program: ~~yes-no~~.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25132 of the Government Code is
- 2 amended to read:
- 3 25132. (a) Violation of a county ordinance is a misdemeanor
- 4 unless by ordinance it is made an infraction. The violation of a
- 5 county ordinance may be prosecuted by county authorities in the
- 6 name of the people of the State of California, or redressed by civil
- 7 action.
- 8 (b) Every violation determined to be an infraction is punishable
- 9 by the following:
- 10 (1) A fine not exceeding one hundred dollars (\$100) for a first
- 11 violation.

1 (2) A fine not exceeding two hundred dollars (\$200) for a second
2 violation of the same ordinance within one year.

3 (3) A fine not exceeding five hundred dollars (\$500) for each
4 additional violation of the same ordinance within one year.

5 (c) Notwithstanding any other provision of law, a violation of
6 local building and safety codes determined to be an infraction is
7 punishable by an administrative fine described in Section 53069.4
8 or by one of the following:

9 (1) A fine not exceeding one hundred dollars (\$100) for a first
10 violation.

11 (2) A fine not exceeding five hundred dollars (\$500) for a second
12 violation of the same ordinance within one year.

13 (3) A fine not exceeding one thousand dollars (\$1,000) for each
14 additional violation of the same ordinance within one year of the
15 first violation.

16 SEC. 2. Section 53069.4 of the Government Code is amended
17 to read:

18 53069.4. (a) (1) The legislative body of a local agency, as the
19 term “local agency” is defined in Section 54951, may by ordinance
20 make any violation of any ordinance enacted by the local agency
21 subject to an administrative fine or penalty. The local agency shall
22 set forth by ordinance the administrative procedures that shall
23 govern the imposition, enforcement, collection, and administrative
24 review by the local agency of those administrative fines or
25 penalties. Where the violation would otherwise be an infraction,
26 the administrative fine or penalty shall not exceed the maximum
27 fine or penalty amounts for infractions set forth in subdivision (b)
28 of Section 25132 and subdivision (b) of Section 36900.

29 (2) (A) Notwithstanding paragraph (1), the amount of an
30 administrative fine for the violation of a county building and safety
31 ordinance, brush removal ordinance, grading ordinance, film permit
32 ordinance, or zoning ordinance, that is determined to be an
33 infraction ~~shall~~ *shall, if the county makes the findings required by*
34 *subparagraph (B),* be based upon the severity of the threat to public
35 health and safety and shall not exceed the following:

36 ~~(A)~~

37 (A)(i) For the first violation, an amount that does not exceed
38 five thousand dollars (\$5,000) or the amount of the permit fee
39 required by the ordinance multiplied by three, whichever is less.

1 In the absence of a permit fee, an amount that does not exceed one
2 thousand dollars (\$1,000).

3 ~~(B)~~

4 ~~(B)(ii)~~ For the second violation of the same ordinance within
5 five years of the first violation, an amount that does not exceed
6 ten thousand dollars (\$10,000) or the amount of the permit fee
7 required by the ordinance multiplied by five, whichever is less. In
8 the absence of a permit fee, an amount that does not exceed two
9 thousand five hundred dollars (\$2,500).

10 ~~(C)~~

11 ~~(C)(iii)~~ For the third violation and subsequent violations of the
12 same ordinance within five years of the first violation, an amount
13 that is greater than ten thousand dollars (\$10,000), but does not
14 exceed fifteen thousand dollars (\$15,000). In the absence of a
15 permit fee, an amount that does not exceed five thousand dollars
16 (\$5,000).

17 *(B) A county shall not assess an administrative fine of more*
18 *than five hundred dollars (\$500) pursuant to subparagraph (A)*
19 *unless the county makes both of the following findings in the*
20 *administrative record:*

21 *(i) The administrative fine was assessed for a willful violation*
22 *or a violation that resulted in an unusual and significant threat to*
23 *the public health and safety.*

24 *(ii) The payment of the administrative fine would not impose*
25 *an undue financial hardship on the person responsible for the*
26 *payment.*

27 (3) The administrative procedures set forth by ordinance adopted
28 by the local agency pursuant to this subdivision shall provide for
29 a reasonable period of time, as specified in the ordinance, for a
30 person responsible for a continuing violation to correct or otherwise
31 remedy the violation prior to the imposition of administrative fines
32 or penalties, when the violation pertains to building, plumbing,
33 electrical, or other similar structural or zoning issues, that do not
34 create an immediate danger to health or safety.

35 (b) (1) Notwithstanding the provisions of Section 1094.5 or
36 1094.6 of the Code of Civil Procedure, within 20 days after service
37 of the final administrative order or decision of the local agency is
38 made pursuant to an ordinance enacted in accordance with this
39 section regarding the imposition, enforcement or collection of the
40 administrative fines or penalties, a person contesting that final

1 administrative order or decision may seek review by filing an
2 appeal to be heard by the superior court, where the same shall be
3 heard de novo, except that the contents of the local agency's file
4 in the case shall be received in evidence. A proceeding under this
5 subdivision is a limited civil case. A copy of the document or
6 instrument of the local agency providing notice of the violation
7 and imposition of the administrative fine or penalty shall be
8 admitted into evidence as prima facie evidence of the facts stated
9 therein. A copy of the notice of appeal shall be served in person
10 or by first-class mail upon the local agency by the contestant.

11 (2) The fee for filing the notice of appeal shall be as specified
12 in Section 70615. The court shall request that the local agency's
13 file on the case be forwarded to the court, to be received within
14 15 days of the request. The court shall retain the fee specified in
15 Section 70615 regardless of the outcome of the appeal. If the court
16 finds in favor of the contestant, the amount of the fee shall be
17 reimbursed to the contestant by the local agency. Any deposit of
18 the fine or penalty shall be refunded by the local agency in
19 accordance with the judgment of the court.

20 (3) The conduct of the appeal under this section is a subordinate
21 judicial duty that may be performed by traffic trial commissioners
22 and other subordinate judicial officials at the direction of the
23 presiding judge of the court.

24 (c) If no notice of appeal of the local agency's final
25 administrative order or decision is filed within the period set forth
26 in this section, the order or decision shall be deemed confirmed.

27 (d) If the fine or penalty has not been deposited and the decision
28 of the court is against the contestant, the local agency may proceed
29 to collect the penalty pursuant to the procedures set forth in its
30 ordinance.

31 ~~SEC. 3.—If the Commission on State Mandates determines that~~
32 ~~this act contains costs mandated by the state, reimbursement to~~
33 ~~local agencies and school districts for those costs shall be made~~
34 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
35 ~~4 of Title 2 of the Government Code.~~